

Phillips

17666

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES

WASHINGTON, D.C. 20548

*Proposed*  
[Protest Alleging Awarder's Bid Was Late]

FILE: B-200987

DATE: April 6, 1981

MATTER OF: Robbins Fence Company

DIGEST:

Bid was not late when it arrived by mail at Government office designated in solicitation for receipt of bids prior to bid opening and because envelope containing bid did not have sticker pasted on it identifying solicitation to which bid was responding, it was treated as routine mail and was not opened until after bid opening.

445  
By telegram of October 22, 1980, Robbins Fence Company (Robbins) protested the proposed award of a contract for the installation of fences at the United States Coast Guard Base, Mobile, Alabama, to I.D.D. Corporation (I.D.D.) under invitation for bids (IFB) DTG29-80-B-00424, issued by the Department of Transportation (DOT). The basis for the protest is that the bid submitted by I.D.D. was late. For the reasons stated below the protest is denied.

The above invitation was issued on August 21, 1980, and specified that bid opening was to be at 1:30 p.m. local time at place of bid opening on September 23, 1980. The address given in the IFB (Standard Form 20) for the bid opening was as follows:

Commander  
Eighth Coast Guard District  
Room 1210  
Hale Boggs Federal Building  
500 Camp Street  
New Orleans, Louisiana 70130

The front page of Standard Form 21 (Bid Form (Construction Contract)) specified the same address. Also, on the reverse side of standard form 21, in the

216400 114850

directions for submitting bids, the bidder was instructed to address the envelope containing the bid to the same address. In addition to the address, the following was required on the envelope: "IFB DTCTG29-80-B-00424; 1:30 p.m., local time at the place of opening 23 September 1980." Enclosed in the bid package for all bidders, including I.D.D., was a sticker (OF-17 (Nov-60)) which was to be pasted on the outside of the envelope containing the bid. This sticker was to contain the IFB number, as well as the time and date of bid opening. I.D.D. did not paste this sticker on the outside of the envelope containing its bid, whereas Robbins did.

Bids were opened at the scheduled time and Robbins was the apparent low bidder with a bid price of \$29,839. However, at 2:03 p.m., on the same afternoon, an express mail envelope which had been opened for identification was brought to the attention of the contracting officer and found to be a bid, in the amount of \$23,700, from I.D.D. in response to the above IFB. This envelope was properly addressed and had been delivered to room 1210 of the Government installation on September 23, 1980, at 8:35 a.m., as was noted on the envelope. However, since the envelope did not have the sticker (OF-17) pasted on it, it was treated as regular mail and delivered to a Mrs. Smith, the secretary for the Comptroller of the Eighth Coast Guard District, who is also located in room 1210. According to Mrs. Smith, it was her normal practice to review the documents received in the regular mail to determine their proper routing and, as was done in the present case, to open all mail not identified as to section.

Paragraph 8 of Standard Form 22 (Instructions to Bidders) states that "any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, it was sent by mail and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation." See Federal Procurement Regulations (FPR) §§ 1-2.303-1 and 1-2.201(a)(31) (1964 ed., amends. 178 and 193).

The contracting officer concluded that I.D.D.'s bid was late due to mishandling by Government personnel and, therefore, was for consideration under the above sections of FPR.

Robbins argues that there is no evidence of Government mishandling of I.D.D.'s bid and the only reason that I.D.D.'s bid was delivered late was that I.D.D., through no one's fault but its own, mislabeled its envelope.

There is no disputing the fact that I.D.D. should have pasted the sticker on the outside of the envelope containing its bid. However, the bid was mailed to the proper address and was received by the Government several hours before bid opening time. In 46 Comp. Gen. 859 (1967), an erroneously marked bid envelope was involved and, although in the Government's possession before the time set for bid opening, was not discovered until the next day. It was held by our Office that the bid was timely and the award made on the basis of the bid was valid. In Building Maintenance Corporation, B-196081, November 27, 1979, 79-2 CPD 374, involving the same command, and even the same room number (1210), we held that a bid modification and acknowledgment of an amendment to the solicitation was not late when it arrived by mail at the Government office designated in the solicitation for receipt of bids prior to bid opening and was mistakenly included with the regular mail which was not distributed until after bid opening. Following the rationale of those cases, we conclude that the bid was not late and properly considered.

The protest is denied.



Acting Comptroller General  
of the United States